

REMARKS

This preliminary amendment includes new claims that are directed to the “load-balancing” functionality described on pages 14-21 of the written description. Thus, for example, the subject matter of new independent claim 19 is described generally on page 14, line 5 through page 15, line 20 (with the details of the technique found on the following pages).

Claims 1-18 were rejected in the parent case under 35 U.S.C. §102(e) as being anticipated by Melchione et al, U.S. Publication No. 2004/0006586. For the reasons advanced in a prior response, the Examiner’s reliance on Melchione was misplaced. In particular, Melchione describes a system for distributing software components to nodes distributed throughout a network. As illustrated in Figure 2, an application service provider provides services for administrating instances of the software 212 via a data center 232. A particular instance of the software might be a software release that needs to be delivered to one or more of the nodes in the network. Each node includes a computer 224 having an agent 228 that communicates with the data center 232 to assist in the process. According to paragraph [0070], the distribution of the software 212 can be accomplished in several ways. In one approach, an administrator specifies which nodes are to receive which releases. Automated processing can then be used to distribute the software to those nodes, and the source copy of the software (that is to be distributed) may reside anywhere in the network. Thus, if desired, a node can be designated to provide the software to another “peer” node within the network, thus alleviating the burden of distributing the software releases from a central location (which could end up as a bottleneck). This particular operation is described in paragraph [0135], which indicates that a “central database can be employed to enable agents to obtain software from other agents.”

The subject matter of this application is directed to a completely different problem, namely, how to load balance application server resources operated in a distributed set of CDN servers of a content delivery network. As described, each CDN server in the set typically includes a server manager process, and an application server on which web applications or application components are executed. As service requests are directed to CDN servers in the set, it is desired that the requests be processed by the web applications such that resource constraints on the individual CDN servers are not exceeded. The details of how load-balancing is achieved

are now positively recited in new claims 19-28. Melchione does not address this problem, let alone describe the specifics of its solution.

Given the new claim language, the Examiner is asked to reconsider and withdraw the rejection, as there is no anticipation of any pending claim.

Respectfully submitted,

/David H. Judson/

By:

David H. Judson, Reg. No. 30,467

ATTORNEYS FOR APPLICANT